

0018

*OK Outgoing
C/007/0038*

From: Angela Nance
To: dware@foundationcoal.com
CC: mwong@foundationcoal.com; Wayne Western
Date: 9/25/2008 8:38 AM
Subject: Fwd: Re: Willow Creek Mine, Exhibit D, C/007/038
Attachments: Exhibit_B012903.doc

Hi Dennis,

We received the Stipulation to Revise the Reclamation Agreement (Exhibit D), the Legal Description (Exhibit A), and the Affidavits of Qualification for the Willow Creek Mine bond reduction. Thank you for those. It looks like we are now only missing the Bonding Agreement (Exhibit B). Please complete Exhibit B (attached) and send to me as soon as possible. Once this document is received - I will forward the entire package to our Division Director for signature and then I can update our files.

Thank you,
Angela
angelanance@utah.gov

>>> Angela Nance 8/20/2008 10:17 AM >>>
Hi Dennis,

Please find attached the letter authorizing a reduction in the bond amount for Willow Creek Mine. The original letter and forms are being sent via regular mail. Please complete Exhibit A, B, and D and an Affidavit of Qualification for the Permittee and for the Surety and a Power of Attorney (if necessary).

Thanks!
Angela
angelanance@utah.gov

>>> "Ware, Dennis (WC) 4737" <dware@foundationcoal.com> 8/18/2008 11:03 AM >>>
Wayne,

I have attached a pdf file containing the current Exhibit "D" for the Willow Creek Permit C/007/038. Please confirm that this is what you are looking for.

Dennis

EXHIBIT "B"

Bonding Agreement Surety Bond

(Federal Coal)

Exhibit "B"
Federal Surety Bond
Federal

Surety Bond Number _____

EXHIBIT "B"
SURETY BOND
(FEDERAL COAL)
--ooOOoo--

This **surety bond** entered into and by and between the undersigned **permittee/principal** _____, and **SURETY** _____, hereby jointly and severally bind ourselves, our heirs, administrators, executors, successors and assigns unto the State of Utah, Division of Oil, Gas and Mining (hereafter referred to as the "**division**"), and the U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement (hereafter referred to as "**osm**") in the penal sum of _____ (\$) (Surety Bond Amount) for the timely performance of reclamation responsibilities of the Permittee in the Bonded Area described in Exhibit "A" of that certain **RECLAMATION AGREEMENT**, dated the _____ day of _____, 20____ by and between the **division** and the **permittee/principal**.

This **surety bond** shall remain in effect until all of the **Permittee's/ principal's** reclamation obligations have been met and released by the **division** with the concurrence of **osm** and is conditioned upon faithful performance of all of the requirements of the Utah Coal Mining Reclamation Act, Utah Code Ad. §40-12-2 et. seq. (the **act**), the Surface Mine Control and Reclamation Act ("**smcra**"), and all lawful regulation adopted under the authority of those statutes, and the approved Permit (which is based upon the approved Permit Application Package).

The **surety** will not cancel this bond at any time for any reason, including non-payment of premium or bankruptcy of the **permittee/principal** during the period of liability.

The **surety** and their successors and assigns, agree to guarantee the obligation and to indemnify, defend, and hold harmless the **Division** and **osm** from any and all expenses which the **division** may sustain as a result of the **permittee's/principal's** failure to comply with the condition(s) of the reclamation obligation.

The **surety** will give prompt notice to the **permittee/principal**, the **division** and **osm** of any notice received or action alleging the insolvency of bankruptcy of the **surety**, or alleging any violations or regulatory requirements which could result in suspension or revocation of the **surety's** license.

Upon incapacity of the **Surety** by reason of bankruptcy, or suspension or revocation of license, the **permittee/principal** shall be deemed to be without Bond coverage in violation of state and federal law and subject to enforcement in accordance with SMCRA, the ACT, and the applicable regulations.

Exhibit "B"
Federal Surety Bond
Federal

Surety Bond Number _____
Mine Name/Number _____

The terms for release of this **bond** are as written and agreed to by the **division** and the **permittee/principal** in the **reclamation agreement**, incorporated by reference herein, to which this **surety agreement** has been attached as Exhibit "B".

In the event the Utah Cooperative Agreement is terminated, this **Surety bond** shall be payable only to the OSM to the extent that lands covered by the Federal Lands Program are involved and otherwise to the **Division**.

In witness whereof, the **permittee/principal** has hereunto set its signature and seal this
day of _____, 20__.

PERMITTEE/PRINCIPAL

By:

Title:

In witness whereof, the **SURETY** has hereunto set its signature and seal this
day of _____, 20__.

SURETY

By:

Title: _____

SURETY BONDING AGREEMENT ACCEPTED BY THE STATE OF UTAH:

Director
Division of Oil, Gas and Mining

NOTE: An **Affidavit of Qualification** must be completed and attached to this form for each authorized agent or officer. Where one signs by virtue of Power of Attorney for a company, such Power of Attorney must be filed with the Agreement. If the **PERMITTEE** is a corporation, the Agreement shall be executed by its duly